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SUBJECT: UN PROPOSAL TO CARVE INVESTIGATION OUT OF OIOS  
RAISES CONCERN

¶1. (C) SUMMARY: The Secretary-General has proposed to extract investigative responsibility from the UN Office of Internal Oversight (OIOS) and to create a new separate and independent entity to conduct investigations. A select group of Member States, including the U.S., with whom SYG Ban shared his ideas welcomed but reacted cautiously to the proposal. In a subsequent discussion with UN Office of Legal Affairs (OLA), where USUN expressed support for the concept of strengthening an independent investigations capacity within the Organization, a number of issues related to the SYG's proposal were identified. END SUMMARY.

¶2. (C) INFORMAL INTRODUCTION BY SYG OF PROPOSAL AT REFORM BREAKFAST. UN Secretary-General Ban informally introduced a proposal to extract investigations from OIOS at a "UN reform" breakfast hosted by Japanese Ambassador Oshima on July 24. Ambassador Khalilzad and a number of permanent representatives from other countries, including those from the G-77, were present. Ambassador Khalilzad expressed support for the concept of an independent investigative capacity as proposed by the SYG. However, he emphasized that the key issue was how best to conduct investigations in an effective and credible manner.

¶3. (C) Other delegations, similarly welcomed the concept generally. Most participants stressed that the proposal had to be considered in the context of existing capacities of the Organization to conduct investigations and emphasized the authority of the General Assembly over such decisions.

¶4. (C) USUN DISCUSSES SYG PROPOSAL WITH OLA U/SYG MICHEL. Ambassador Wallace, accompanied by M/R Minister-Counselor Rashkow and another M/R Officer, met July 26 with UN Office of Legal Affairs (OLA) Under Secretary-General Nicolas Michel, OLA A/SYG Larry Johnson, and OLA Special Assistant Mark Quarterman. Drawing from what he termed "rough notes," Michel summarized the key elements for a strengthened approach "to efficiently investigate possible wrongdoing within the UN involving staff members and service providers." Given the UN's recent "ad hoc" approach to investigations, Michel opined that it was time to put in place a more systematic approach to the conducting of internal investigations within the Organization. Michel acknowledged that certain delegations, as well as OIOS itself, might resist such a proposal.

¶5. (C) Ambassador Wallace indicated that, in principle, the U.S. fully supported a stronger, more robust internal investigations capacity within the UN. He noted, however, that the proposal contained a number of elements that required careful consideration, including the establishment of an advisory committee to oversee investigations and the provision of more elements of a quasi-judicial nature that might address greater due process for staff members and mutual cooperation with Member State law enforcement authorities. It was recognized that raising these issues likely would result in a contentious debate among Member

States in the Fifth Committee.

¶6. (C) During the course of the discussion, the issue arose of whether the proposal involved a risk to what already exists in OIOS without any assurance that there will be sufficient support for a stronger, more robust investigations function. Amb. Wallace, however, suggested that simply initiating discussion of the proposal could produce positive results by prompting OIOS to strengthen its existing investigations function.

¶7. (C) U/SYG Michel welcomed U.S. support for the concept proposed by the SYG and the opportunity to discuss the proposal. Michel said SYG Ban planned to continue seeking additional reactions to his proposal. Michel urged that the U.S. not appear to be too supportive of the idea at this early stage since this might itself provoke resistance and suspicions from certain other states.  
KHALILZAD